IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 4033 OF 2004

IN

CRIMINAL APPEAL NO. 210 OF 2004

Vinod Sahadeo Lad .. Applicant

versus

State of Maharashtra .. Respondents

...

Mr.Sanjeev Kadam for the applicant.

Mr.D.P. Adsule, APP for the State.

CORAM : V.M. KANADE, J

DATED : 8th October 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant is convicted u/s.376 (2)(f) of the IPC and sentenced to suffer RI for 10 years. It

is submitted that there is a contradiction in the evidence of the mother of the prosecutrix and the evidence of PW no.6 Jayashre Mane.Both are residing in the same house. PW no.3 Nanda has stated that she had gone to the Gymnasium and there she found that the accused was attempting to commit sexual intercourse with her daughter. PW no.6 however has stated that Nanda was in the house along with her when Mayuri came home crying. Thereafter, PW no.3 Nanda had gone to call her husband. From the medical evidence it appears that there was an attempt to commit sexual intercourse and that there were no injuries on the person of the prosecutrix. Only her Labia Majora and Labir Minora were found to be reddish in colour. Her underwear was intact and there was blood on the underwear.

3. In view of the discrepancy in the statement of the complainant and PW no.6 Jayashree and the fact that there was no external injuries on the person of the prosecutrix, in my view this is a fit case where the applicant should be released on bail. Apart from that, the applicant is in jail since last 2 1/2 years. The appeal is not likely to come up for hearing for quite some time. Under these circumstances, the

applicant is entitled to be released on bail subject to certain conditions being imposed by this Court.

4. The applicant be released on bail in the sum of Rs.5,000/- with one or two sureties in like amount. The applicant not to enter the jurisdiction of R.A. Kidwai Marg Police station, Bombay during the pendency of the appeal.

5. The learned counsel for the applicant submits that the applicant proposes to stay at Rajapur, District.Ratnagiri and he shall report to Rajapur Police station once in a month.

V.M. KANADE, J